

## New Legislation

County Clerks'  
Conference  
June 2011

### HEA 1004

- Amends IC 5-11-1-4 Effective July 1, 2011
- **(a)** The state examiner shall require from every municipality and every state or local governmental unit, entity, or instrumentality financial reports covering the full period of each fiscal year. These reports shall be prepared, verified, and filed with the state examiner not later than sixty (60) days after the close of each fiscal year. The reports must be filed electronically, in a manner prescribed by the state examiner that is compatible with the technology employed by the political subdivision.
- **(b) The department of local government finance may not approve the budget of a political subdivision or a supplemental appropriation for a political subdivision until the political subdivision files an annual report under subsection (a) for the preceding calendar year.**

### HEA 1004 Continued

- Amends IC 6-8.1-8-2 Effective upon passage
- Tax Warrants
- **(h)** If the department determines that the filing of a tax warrant was in error, the department shall mail a release of the judgment to the taxpayer and the circuit court clerk of each county where the warrant was filed. **The circuit court clerk of each county where the warrant was filed shall expunge the warrant from the judgment debtor's column of the judgment record.** The department shall mail the release **and the order for the warrant to be expunged** as soon as possible ...

## SEA 217

- Amended IC 35-44-1-2  
Official misconduct  
Sec. 2. A public servant who knowingly or intentionally:
  - (1) commits an offense in the performance of the public servant's official duties;
  - (2) solicits, accepts, or agrees to accept from an appointee or employee any property other than what the public servant is authorized by law to accept as a condition of continued employment;

## SEA 217 continued

- (3) acquires or divests himself or herself of a pecuniary interest in any property, transaction, or enterprise or aids another person to do so based on information obtained by virtue of the public servant's office that official action that has not been made public is contemplated; or
- (4) fails to deliver public records and property in the public servant's custody to the public servant's successor in office when that successor qualifies; commits official misconduct, a Class D felony.
- Effective July 1, 2011

## SEA 559

- Amends IC 35-44-1-3
- Conflict of interest
- Still must be submitted to State Board of Accounts
- Any question, consult with county attorney
- Effective July 1, 2011

## SEA 590

- "Immigration Bill" Effective July 1, 2011
- Adds IC 12-32, restrictions on public benefits to illegal aliens, states in part:..."federal public benefit" has the meaning set forth in 8 U.S.C. 1611. "state or local public benefit" has the meaning set forth in 8 U.S.C. 1621.

Sec. 5. (a) Notwithstanding any other provision of law and except as otherwise provided under federal law, an agency or a political subdivision shall verify, in the manner required under section 6 of this chapter, the eligibility of any individual who:

- (1) is at least eighteen (18) years of age; and
- (2) applies for state or local public benefits or federal public benefits that are provided by the agency or the political subdivision.

## SEA 590 Continued

- Sec. 6. An agency or a political subdivision required to verify the eligibility of an individual under section 5 of this chapter shall:
  - (1) require the individual to execute a verification stating under penalty of perjury that the individual is a:
    - (A) United States citizen; or
    - (B) qualified alien (as defined under 8 U.S.C. 1641); and
  - (2) maintain a verification executed in accordance with subdivision (1) for at least five (5) years.

## SEA 590 Continued

- Sec. 9. The state board of accounts:
  - (1) shall adopt rules under IC 4-22-2, applicable to all political subdivisions, to carry out this chapter; and
  - (2) may adopt a variation of the requirements set forth in this chapter, applicable to all political subdivisions, to provide for an adjudication in the case of unique individual circumstances under which the procedures set forth in this chapter would impose an unusual hardship on a legal resident of Indiana.

## SEA 590 Continued

- 8USC1621 states in part:
- "(c) ``State or local public benefit" means-- (A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

## SEA 590 Continued

- (b) Exceptions Subsection (a) of this section shall not apply with respect to the following State or local public benefits: (1) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition (as defined in section 1396b(v)(3) of title 42) of the alien involved and are not related to an organ transplant procedure. (2) Short-term, non-cash, in-kind emergency disaster relief. (3) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease.

## SEA 590 Continued

- (4) Programs, services, or assistance (such as soup kitchens, crisis counseling and intervention, and short-term shelter) specified by the Attorney General, in the Attorney General's sole and unreviewable discretion after consultation with appropriate Federal agencies and departments, which (A) deliver in-kind services at the community level, including through public or private nonprofit agencies; (B) do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and (C) are necessary for the protection of life or safety."

## SEA 590 Continued

- Adds IC 22-5-1.7
- IC 22-5-1.7-10 states in part: "...political subdivision shall use the E-Verify program to verify the work eligibility status of all employees...hired after June 30, 2011."
- After June 30, 2011 a political subdivision may not enter into or renew a public contract for services with a contractor unless:
  - The public contact contains a provision requiring the contractor to enroll and verify eligibility status of newly hired employees through the E-Verify program
  - The contractor signs an affidavit affirming that the contractor does not knowingly employ unauthorized aliens

---

---

---

---

---

---

---

---

## SEA 590 Continued

- A political subdivision may not award a grant of more than \$1000 to a business entity unless the business entity
  - Signs a sworn affidavit that affirms that it is enrolled and participating in the E-Verify program
  - Provides documentation supporting this
  - Signs affidavit affirming that the business entity does not knowingly employ an unauthorized alien
- Gives guidance on what steps may be taken if there is a violation
- Gives guidance on subcontractor requirements

---

---

---

---

---

---

---

---

## SEA 590 Continued

- What is E-Verify?
- It is an internet-based system that is operated by the U.S. Department of Homeland Security in partnership with the Social Security Administration
- Allows an employer to determine the eligibility of employees to work in the U.S.
- There is no charge
- [www.dhs.gov/files/programs](http://www.dhs.gov/files/programs)

---

---

---

---

---

---

---

---

## SEA 590 Continued

- Adds IC 35-33-8-4.5 Effective July 1, 2011
- Illegal Alien Bond
- (a) If bail is set for a defendant who is a foreign national who is unlawfully present in the United States under federal immigration law, the defendant may be released from custody only by posting a:
  - (1) cash bond in an amount equal to the bail;
  - (2) real estate bond in which the net equity in the real estate is at least two (2) times the amount of the bail; or
  - (3) surety bond in the full amount of the bail that is written by a licensed and appointed agent of an insurer (as defined in IC 27-10-1-7).

## SEA 590 Continued

- (b) If the defendant for whom bail has been posted under this section does not appear before the court as ordered because the defendant has been:
  - (1) taken into custody or deported by a federal agency; or
  - (2) arrested and incarcerated for another offense;
 the bond posted under this section may not be declared forfeited by the court and the insurer (as defined in IC 27-10-1-7) that issued the bond is released from any liability regarding the defendant's failure to appear.

## HEA 1025

- Amends IC 5-4-1-18 Effective July 1, 2011
- Officials Bonds
- Takes out the wording annual coverage
- Adds section (k) Both of the following apply to a bond or crime insurance policy that is filed to comply with this section (1) Unless the bond or policy is canceled, the bond or policy must continue in force for the term of office of the individual who files the bond or policy. (2) The aggregate liability of the surety or insurer is the amount specified in the bond or policy.

## HEA 1025 Continued

- Adds section IC 5-11-1-27 Effective July 1, 2011
  - (a) As used in this section, "local government" means county, city, town, or township.
    - (b) In the compliance guidelines authorized under section 24 of this chapter, the state board of accounts shall define the acceptable minimum level of:
      - (1) internal control standards; and
      - (2) internal control procedures;
- for internal control systems of local governments. The internal control standards and procedures shall be developed to promote government accountability and transparency.

---

---

---

---

---

---

---

---

## HEA 1025 Continued

- (c) All erroneous or irregular variances, losses, shortages, or thefts of local government funds or property shall be reported immediately to the state board of accounts. The state board of accounts shall:
  - (1) determine the amount of funds involved and report the amount to the appropriate government and law enforcement officials;
  - (2) determine the internal control weakness that contributed to or caused the condition; and
  - (3) make written recommendations to the appropriate legislative body or appropriate official overseeing the internal control system addressing:
    - (A) the method of correcting the condition; and
    - (B) the necessary internal control policies and internal control procedures that must be modified to prevent a recurrence of the condition.

---

---

---

---

---

---

---

---

## HEA 1025 Continued

- (d) The legislative body or the appropriate official overseeing the internal control system shall immediately implement the policies and procedures recommended by the state board of accounts under subsection (c)(3)(B).

---

---

---

---

---

---

---

---

## SEA 34

- Adds IC 11-13-4.5-8 Effective July 1, 2011
- The fiscal body of each county shall establish a county offender transportation fund .
- Used for the purpose of defraying the costs of returning to the state probationers who violate their conditions of supervision
- Fiscal body appropriates as requested by the probation department
- Does not revert

## SEA 34 Continued

- IC 11-13-4.5-4 Amended An Indiana offender or delinquent child on probation who applies to be transferred out of state under the interstate compact shall pay an application fee of \$125 to the county probation department
- Fee was increased from \$75
- Before 50% was deposited into the supplemental adult probation services fund and 50% sent to the Indiana Judicial Center
- 50% will be deposited into the offender transportation fund
- 50% will be sent to the Indiana Judicial Center

## SEA 464

- Public Funds Effective July 1, 2011
- Adds IC 5-13-4-21.3
  - Public Servant has the meaning set forth in IC 35-41-1-24
- Amends IC 5-13-14-3 A public servant who knowingly or intentionally:
  - (1) fails to deposit public funds; or knowingly
  - (2) deposits or draws any check or negotiable order of withdrawal against the funds; except in the manner prescribed in this article, commits a Class A misdemeanor. However, the offense is a Class D felony if the amount involved is at least seven hundred fifty dollars (\$750), and a Class C felony if the amount involved is at least fifty thousand dollars (\$50,000). The public officer servant also is liable upon the officer's public servant's official bond for any loss or damage that may accrue.



## SEA 205 and HEA 1297

- Payment of service charge to depository
- Amends IC 5-13-9-8
- The service charge may be paid:
  - (1) by direct charge to the deposit or other account; or
  - (2) in a manner that subtracts the service charge from interest earned on the funds in the deposit or other accounts
- Effective Upon Passage

## HEA 155

- Amends 6-8.1-8-2 by adding (m) Effective July 1, 2011
- Tax warrant/lien on property
- m) A lien on real property described in subsection (e)(2) is void if both of the following occur:
  - (1) The person owing the tax provides written notice to the department to file an action to foreclose the lien.
  - (2) The department fails to file an action to foreclose the lien not later than one hundred eighty (180) days after receiving the notice.
- (n) A person who gives notice under subsection (m) by registered or certified mail to the department may file an affidavit of service of the notice to file an action to foreclose the lien with the circuit court clerk in the county in which the property is located. The affidavit must state the following:

## HEA 155 Continued

- (1) The facts of the notice.
  - (2) That more than one hundred eighty (180) days have passed since the notice was received by the department.
  - (3) That no action for foreclosure of the lien is pending.
  - (4) That no unsatisfied judgment has been rendered on the lien.
  - (o) Upon receipt of the affidavit described in subsection (n), the circuit court clerk shall make an entry showing the release of the judgment lien in the judgment records for tax warrants.

## HEA 582

- Added IC 32-30-10.5-8.6 Effective upon passage
- Applies to mortgage foreclosure action filed after June 30, 2011
- During pendency, regardless of nay stay, if the debtor continues to occupy the dwelling, the court may issue a provisional order that requires the debtor to make monthly payments.
- The court will direct that the payments are either made to the clerk of the court or an attorney trust account.
- These funds may not be disbursed without a court order.

---

---

---

---

---

---

---

---

## HEA 1153

- Adds IC 33-23-16-23.5 Effective July 1, 2011
- A parent or guardian that is ordered to pay the problem solving court service fees and chemical testing expenses assessed for a child who is accepted into a problem solving court program
  - Pays to the clerk of the court
  - The problem solving court shall keep record of all payments made under this section by each parent or guardian
  - When a child is discharged from a program, the problem solving court shall determine the amount unpaid
  - The problem solving court may reduce the unpaid balance to a final judgment that may be enforced in any court that has appropriate jurisdiction

---

---

---

---

---

---

---

---

## HEA 1316

- Added new sections IC 31-40-1-3.5 and IC 31-40-1-3.8 Effective July 1, 2011
- If a Juvenile Court determines that a parent should pay for the costs and expenses of services for or the placement of a child in need of services or a delinquent child:
  - Payments are made to the clerk of the court
  - The clerk shall provide a receipt for each payment received
  - The clerk shall keep track of all payments made by each parent
  - At the end of the action the clerk shall provide an accounting of payments received and the juvenile court reduces the unpaid balance to a judgment which may be enforced by any court having jurisdiction

---

---

---

---

---

---

---

---

## HEA 1001

- Amends IC 33-37-7-2 Effective July 1, 2011
- Concerning distribution of fees
  - If under the state's automated judicial system (JTAC) then 100% of the automated record keeping fee is still distributed by the clerk semiannually to the auditor of state
  - If not operating under JTAC then 80% of the automated record keeping fee is distributed by the clerk semiannually to the auditor of state and 20% distributed monthly to the county auditor to be deposited into the clerk's record perpetuation fund
  - This does not include the automated record keeping fee collected under pretrial diversion or deferral programs. Those are distributed as before

---

---

---

---

---

---

---

---

## HEA 1001 Continued

- Amends IC 33-37-5-2 Effective July 1, 2011
- Adds to those fees placed into the clerk's record perpetuation fund the 20% of automated record keeping fees
- Also adds that in addition to preservation of records and improvement of record keeping systems and equipment, may use the fee for case management system
- Amends IC 33-37-5-21 Effective July 1, 2011
- The automated record keeping fee collected after June 30, 2011 increased from \$4 to \$5
- Amends IC 33-37-5-21.2 Effective July 1, 2011
- The public defense administration fee increases from \$3 to \$5

---

---

---

---

---

---

---

---